

STATE OF CALIFORNIA  
ENVIRONMENTAL PROTECTION AGENCY  
DEPARTMENT OF TOXIC SUBSTANCES CONTROL

In the Matter of:  
U.S. Filter Recovery Services  
(California), Inc.  
5375 S. Boyle Avenue  
Vernon, CA 90058  
EPA ID# CAD097030993  
Respondent.

Docket AG 20040478  
SETTLEMENT AGREEMENT AND  
CONSENT ORDER

Health and Safety Code  
Section 25187

The State Department of Toxic Substances Control (“the Department”) and U.S. Filter Recovery Services (California), Inc. (“Respondent”) enter into this Settlement Agreement and Consent Order (“Order”) and agree as follows:

1. Respondent handles, treats, and stores hazardous waste at 5375 S. Boyle Avenue, Vernon, California 90058 (the “Site”).

1.1. The Department authorized Respondent to manage hazardous waste by Hazardous Waste Facility Permit No. 96-SC-TS-06 (the “Permit”) issued on August 30, 1996, and subsequent approved modifications.

2. The Department inspected the Site on February 6, 7, 9, 20, 21 & 23, 2001; January 22, 2002; and June 27 & 28, July 1 and 31, and August 12, 2002.

3. The Department alleges the following violations:<sup>1</sup>

2001- 1 Respondent violated Health and Safety Code (HSC) Section 25201(a), which prohibits a hazardous waste facility operator from conducting

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<sup>1</sup> Respondent has provided responses to certain of the Department’s allegations, as set forth in Attachment A to this Settlement Agreement and Consent Order. The Department does not concede that the contentions of Respondent are true.

unauthorized treatment, in that on or about February 6, 2001, USFRS treated organic wastes with sodium hydroxide in tanks 56 to 63, although USFRS did not have authorization to treat hazardous wastes in those tanks.

2001- 2            Respondent violated HSC Section 25201(a), in that on or about February 6, 2001, USFRS stored hazardous wastes in unauthorized areas including the drive way north of wastewater treatment system.

2001- 3.           Respondent violated Title 22, Cal. Code Regs., Section 66264.177 (c), which requires a facility operator to segregate incompatible wastes, in that on or about February 6, 2001, USFRS stored acids, caustics and cyanide wastes west of the off-loading area without any separation.

2001-4.           Respondent violated Title 22, Cal. Code Regs., Section 66264.73 (b), which requires a facility operator to record the location of each hazardous waste within the facility and the quantity at each location, in that on or about February 20, 2001, the waste volume implied by the receiving logs did not reflect the waste volumes in the tanks.

2001-5            Respondent violated Title 22, Cal. Code Regs., Sections 66264.13 and 66264.17 (b) and (c), which require a facility operator to follow the facility's waste analysis plan, in that on or about February 6, 2001, USFRS did not have records of certain compatibility and reactivity tests, or organic vapor measurements for wastes that had been accepted, transferred, stored, or treated at the facility. Further, USFRS did not document the compliance as required by per Section 66264.17 (c).

2001- 9.           Respondent violated Title 22, Cal. Code Regs., Section

66264.171, which requires a facility operator to move hazardous waste from damaged containers into good containers, in that on or about February 6, 2001, USFRS had failed to transfer the hazardous waste from a damaged yard box with ticket number 54896.

2002 - 1        Respondent violated Health and Safety Code, section 25202, subdivision (a), and California Code of Regulations, title 22, section 66264.15, subdivision (d), which requires a facility operator to maintain inspection logs, in that on or about June 28, 2002, USFRS's inspection logs did not note a leaking pump in the containment area of the 8-pack tanks (tanks 56 to 63) or that the side tubes for the 8-pack tanks were deteriorated, which made it impossible to identify the level of the contents in the tanks.

2002 - 2.        Respondent violated Health and Safety Code, section 25202, subdivision (a), and California Code of Regulations, title 22, section 66264.33 and section 66264.194, subdivision (b)(2), in that on or about June 28, 2002, USFRS failed to maintain overfill prevention controls: at the time of the inspection the level sensors for Tanks 19 to 24 were not functioning properly.

2002 - 3.        Respondent violated Health and Safety Code, section 25202, subdivision (a), and California Code of Regulations, title 22, section 66264.195, subdivision (a), which require a facility operator to inspect tank overfill controls, in that on or about July 31, 2002, USFRS failed to inspect overfill controls for the 8-pack tanks at least once each operating day to ensure that they are in good working order.

2002 - 4.        Respondent violated Health and Safety Code, section 25202, subdivision (a) and California Code of Regulations, title 22, section 66264.12,

subdivision (a)(1), which require a facility operator to notify the Department before accepting hazardous waste from a foreign source, in that on or about June 28, 2002, USFRS failed to notify the Department in writing at least four weeks in advance of receiving hazardous waste from a foreign source.

2002 - 5. Respondent violated Health and Safety Code, section 25202, subdivision (a), and California Code of Regulations, title 22, section 66264.15 subdivision (b), and section 66264.195, subdivision (e), which require a facility operator to conduct tanks assessments, in that on or about July 31, 2002, USFRS did not have records of a required tank assessment for tank 50.

2002 - 6. Respondent violated Health and Safety Code section 25202, subdivision (a), and California Code of Regulations, title 22, section 66264.33, which require a facility operator to test and maintain safety equipment, in that on or about June 28, 2002, USFRS had not tested either the sulfur dioxide (SO<sub>2</sub>) and hydrogen cyanide (HCN) alarm systems since November 15, 2001.

2002 - 7. Respondent violated Health and Safety Code, section 25202 subdivision (a), and California Code of Regulations, title 22, section 66264.31, which require a facility operator to minimize the possibility of a release of hazardous waste, in that on or about June 28, 2002, liquid regularly dripped from certain filter presses on the Site onto a concrete pad.

2002 - 8. Respondent violated Health and Safety Code, section 25202, subdivision (a), and California Code of Regulations, title 22, section 66264.13, subdivision (a), in that on or about July 31, 2002, USFRS did not have certain records

documenting that USFRS had conducted an organic vapor screen and/or organic content measurements for the wastes received.

2002 - 9. Respondent violated Health and Safety Code section 25202, subdivision (a), and Hazardous Waste Facility Permit Attachment A section III.D., in that on or about June 4, 2002, USFRS stored hazardous wastes in portable tanks for which USFRS did not have authorization. On June 4, 2002, 3000 gallons of waste nitric acid waste were stored in Baker #4. In June 2002, at the Bulk Containment Area, on 8 occasions, hazardous wastes were transferred to Baker tank B110D and on 5 occasions hazardous wastes were transferred to Baker 2537D for storage or treatment.

2002 - 10. Respondent violated Health and Safety Code section 25202, subdivision (a), and California Code of Regulations, title 22, section 66264.73, subdivision (b)(1) and (b)(2), which require a facility to monitor and record the amount of hazardous waste it receives, the location of each hazardous waste within the facility and the quantity at each location, in that, for example, on June 10, 2002 USFRS had received and transferred approximately 21,316 gallons of hazardous waste into Tank 22, but the volume recorded in Tank 22 only increased by 1,836 gallons.

4. A dispute exists regarding the alleged violations.
5. The parties wish to avoid the expense of litigation and to ensure prompt compliance.
6. Jurisdiction exists pursuant to Health and Safety Code section 25187.
7. Respondent waives any right to a hearing in this matter.
8. This Consent Order shall constitute full settlement of the violations

alleged above, but does not limit the Department from taking appropriate enforcement action concerning other violations.

9. By entering into this Settlement Agreement and Order, Respondent does not admit to any of the allegations of the Department and the Department does not concede that any of the contentions of Respondent are true. Attachment A shall not be a defense to any requirement imposed by this agreement or by any law or regulation, nor shall it be construed against the Department in any way. Notwithstanding the foregoing, Respondent shall not be precluded from independently raising the arguments and factual issues set forth in Attachment A in any subsequent action or proceeding.

#### SCHEDULE FOR COMPLIANCE

10. Respondent shall comply with the following:

10.1. Compliance Conditions:

2001 - 1: Respondent shall include in the second track application for a permit modification, described in section 10.14 below, an augmented, updated version of the tank inventory table that USFRS submitted to the Department on June 20, 2002. This inventory shall provide sufficient descriptions of each tank and its ancillary equipment, the hazardous wastes USFRS stores and/or treats in each tank and the treatment processes USFRS conducts in each tank and shall conform to the guidance given by the Department's permitting unit. After the Department's approval of Respondent's application for a permit modification which incorporates an updated version of the tank inventory table, should Respondent utilize any tank in a manner other than described in such updated tank inventory, that management will be considered a

repeat violation of section 25201(a).

2001 - 2: Respondent shall include in the second track application for a permit modification, described in section 10.14 below, a plot plan clearly identifying the boundaries of the primary off-load, container truck off-load and wastewater treatment system staging areas and any other area where USFRS holds containers or tanks of hazardous waste, and as may be appropriate and in consultation with the Department's permitting staff, proposing physical barriers to protect the wastewater treatment system staging area. Within thirty days of any approval by the Department of the plot plan (either through approval of the permit modification or other written approval), Respondent shall clearly delineate those areas on the ground (i.e., with painted lines) and shall construct the physical barrier, if required. After the Department has approved the plot plan, should Respondent store hazardous waste outside the storage areas that the Department has approved, that storage will be considered a repeat violation of section 25201(a).

2001 - 3: Respondent shall comply with California Code of Regulations, title 22, section 66264.177.

2001 - 4: Respondent shall comply with California Code of Regulations, title 22, section 66264.73. USFRS shall revise its protocols for maintaining its operating log to more effectively track the transfer of wastes between tanks and implement those revised protocols as soon as possible. Further USFRS shall incorporate that revised protocol in the second track application for a permit modification, described in section 10.14 below. Respondent shall maintain accurate drum counts and drum

tracking.

2001 - 5: Respondent shall timely include in the second track application for a permit modification, described in section 10.14 below, proposed revisions to its Waste Analysis Plan that shall specify in greater detail Respondent's internal screening procedures, compatibility testing protocols, and protocols for recording bench testing results. After the Department's approval of the revised Waste Analysis Plan, should Respondent fail to conduct or maintain adequate records of any compatibility, reactivity, organic vapor tests, or other waste characterization tests required by the approved revised Waste Analysis Plan, that action will be considered a repeat violation of section 66264.13.

2001 - 9: Respondent shall comply with California Code of Regulations, title 22, section 66264.171.

2002 - 1: Respondent shall comply with California Code of Regulations, title 22, section 66264.15. No later than thirty days after the Effective Date, Respondent shall work with the Department's permitting staff to determine what, if anything, needs to be clarified on USFRS's revised inspection checklists to address similar incidents in the future. If needed, USFRS will include a revised set of inspection checklists and protocols in the application for a permit modification, described in section 10.14 below.

2002 - 4: Respondent shall comply with California Code of Regulations, title 22, section 66264.12(a)(1) and shall itself send all notifications of imports of hazardous waste to the Department, rather than relying on brokers or other



third parties.

2002 - 5: Respondent shall comply with California Code of Regulations, title 22, section 66264.195(e).

2002 - 6: Respondent shall comply with California Code of Regulations, title 22, section 66264.33.

2002 - 7: Respondent has informed the Department that it is currently making efforts to install equipment to minimize leakage from the filter press. Respondent shall complete the installation of the leakage control equipment by no later than ninety days of the Effective Date of this Order and a description of such equipment shall be incorporated into the first track application for a permit modification, described in section 10.14 below. Following Respondent's installation of the leakage control equipment, and after the Department's approval of Respondent's application for a permit modification which incorporates a description of such equipment, should Respondent fail to operate such leakage control equipment, such failure will be deemed a repeat violation of section 66264.31. At all times Respondent shall minimize releases from the filter press.

2002- 9: Respondent shall continue to work with the Department's permitting staff to include in the second track application for a permit modification, described in section 10.14 below, a plan that provides clarification regarding USFRS's use and management of portable tanks.

10.2. Submittals: All submittals from Respondent pursuant to this Consent Order shall be sent simultaneously to:

Florence Gharibian  
Department of Toxic Substances Control  
1011 Grandview Ave  
Glendale, CA 91201

James Grace  
Office of Legal Counsel  
Department of Toxic Substances Control  
1001 I Street, 23rd floor  
P. O. Box 806  
Sacramento, California 95812-0806

10.3. Communications: All approvals and decisions of the Department made regarding such submittals and notifications shall be communicated to Respondent in writing by a Branch Chief, Department of Toxic Substances Control, or his/her designee. No informal advice, guidance, suggestions, or comments by the Department regarding reports, plans, specifications, schedules, or any other writings by Respondent shall be construed to relieve Respondent of its obligation to obtain such formal approvals as may be required.

10.4. Department Review and Approval: If the Department determines that any report, plan, schedule, or other document submitted for approval pursuant to this Consent Order fails to comply with the Order or fails to protect public health or safety or the environment, the Department may return the document to Respondent with recommended changes and a date by which Respondent must submit to the Department a revised document incorporating the recommended changes.

10.5. Compliance with Applicable Laws: Respondent shall carry out this Order in compliance with all local, State, and federal requirements, including but not limited to requirements to obtain permits and to assure worker safety.

10.6. Endangerment during Implementation: In the event that the Department determines that any circumstances or activity (whether or not pursued in compliance with this Consent Order) are creating an imminent or substantial endangerment to the health or welfare of people on the site or in the surrounding area or to the environment, the Department may order Respondent to stop further implementation for such period of time as needed to abate the endangerment. Any deadline in this Consent Order directly affected by a Stop Work Order under this section shall be extended for the term of such Stop Work Order.

10.7. Liability: Nothing in this Consent Order shall constitute or be construed as a satisfaction or release from liability for any conditions or claims arising as a result of past, current, or future operations of Respondent, except as provided in this Consent Order. Notwithstanding compliance with the terms of this Consent Order, Respondent may be required to take further actions as are necessary to protect public health or welfare or the environment.

10.8. Site Access: Access to the Site shall be provided at all reasonable times to employees, contractors, and consultants of the Department, and any agency having jurisdiction. Nothing in this Consent Order is intended to limit in any way the right of entry or inspection that any agency may otherwise have by operation of any law. The Department and its authorized representatives may enter and move freely about all property at the Site at all reasonable times for purposes including but not limited to: inspecting records, operating logs, and contracts relating to the Site; reviewing the progress of Respondent in carrying out the terms of this Consent Order; and conducting

such tests as the Department may deem necessary. Respondent shall permit such persons to inspect and copy all records, documents, and other writings, including all sampling and monitoring data, in any way pertaining to work undertaken pursuant to this Consent Order.

10.9. Sampling, Data, and Document Availability: Respondent shall permit the Department and its authorized representatives to inspect and copy all sampling, testing, monitoring, and other data generated by Respondent or on Respondent's behalf in any way pertaining to work undertaken pursuant to this Consent Order. Respondent shall allow the Department and its authorized representatives to take duplicates of any samples collected by Respondent pursuant to this Consent Order. Respondent shall maintain a central depository of the data, reports, and other documents prepared pursuant to this Consent Order. All such data, reports, and other documents shall be preserved by Respondent for a minimum of six years after the conclusion of all activities under this Consent Order. If the Department requests that some or all of these documents be preserved for a longer period of time, Respondent shall either comply with that request, deliver the documents to the Department, or permit the Department to copy the documents prior to destruction. Respondent shall notify the Department in writing at least six months prior to destroying any documents prepared pursuant to this Consent Order.

10.10. Government Liabilities: The State of California shall not be liable for injuries or damages to persons or property resulting from acts or omissions by Respondent or related parties specified in paragraph 12.3, in carrying out activities

pursuant to this Consent Order, nor shall the State of California be held as a party to any contract entered into by Respondent or its agents in carrying out activities pursuant to this Consent Order.

10.11. Incorporation of Plans and Reports: All plans, schedules, and reports that require Department approval and are submitted by Respondent pursuant to this Consent Order are incorporated in this Consent Order upon approval by the Department.

10.12. Extension Requests: If Respondent is unable to perform any activity or submit any document within the time required under this Consent Order, the Respondent may, prior to expiration of the time, request an extension of time in writing. The extension request shall include a justification for the delay.

10.13. Extension Approvals: If the Department determines that good cause exists for an extension, it will grant the request and specify in writing a new compliance schedule.

10.14. Permit Modification Applications: The parties agree that modifications of USFRS's permit are appropriate to help resolve the violations identified as 2001-1, 2001-2, 2001-5, 2002-7, and 2002-9 herein. Within thirty days of the Effective Date of this Order, or by a date otherwise to be mutually agreed upon by the Department and Respondent and confirmed in writing, Respondent shall submit to the Department in writing the "first track" application for a permit modification. Respondent shall incorporate into that application each of the items so identified in section 10.1 above. Within ninety days of the Effective Date of this Order, or by a date otherwise to

be mutually agreed upon by the Department and Respondent and confirmed in writing, Respondent shall submit to the Department in writing the “second track” application for a permit modification. Respondent shall incorporate into that application each of the items so identified in section 10.1 above. Further, Respondent shall make its best efforts to submit a complete and competent application, to make all appropriate revisions reasonably sought by the Department, and to enable the Department to make issue the permit modification determination as expeditiously as possible.

### PAYMENTS

11. Within 30 days of the Effective Date of this Consent Order, Respondent shall pay the Department a total of \$50,000, of which \$30,000 is a penalty and \$20,000 is reimbursement of the Department's costs. Respondent shall pay this penalty in 12 monthly payments of \$4,166.67 each. The first payment shall be due on the date fifteen days after the Effective Date of this Consent Order. Each subsequent payment shall be due on the same day of each successive month. Respondent's checks shall be made payable to Department of Toxic Substances Control, and shall be delivered together with the attached Payment Voucher to:

Department of Toxic Substances Control  
Accounting Office  
1001 I Street, 21st floor  
P. O. Box 806  
Sacramento, California 95812-0806

A photocopy of the check shall be sent:

To: Florence Gharibian  
Department of Toxic Substances Control  
1011 Grandview Ave  
Glendale, CA 91201

James Grace  
Office of Legal Counsel  
Department of Toxic Substances Control  
1001 I Street, 23rd floor  
P. O. Box 806  
Sacramento, California 95812-0806

If Respondent fails to make payment as provided above, Respondent agrees to pay interest at the rate established pursuant to Health and Safety Code section 25360.1 and to pay all costs incurred by the Department in pursuing collection including attorney's fees.

#### OTHER PROVISIONS

12. Furthermore:

12.1. Additional Enforcement Actions: By agreeing to this Consent Order, the Department does not waive the right to take further enforcement actions, except to the extent provided in this Consent Order.

12.2. Penalties for Noncompliance: Failure to comply with the terms of this Consent Order may subject Respondent to civil penalties and/or punitive damages for any costs incurred by the Department or other government agencies as a result of such failure, as provided by Health and Safety Code section 25188 and other applicable provisions of law.

12.3. Parties Bound: This Consent Order shall apply to and be binding upon Respondent and its officers, directors, agents, receivers, trustees, employees, contractors, consultants, successors, and assignees, including but not limited to individuals, partners, and subsidiary and parent corporations, and upon the Department

and any successor agency that may have responsibility for and jurisdiction over the subject matter of this Consent Order.

12.4. Effective Date: The effective date of this Consent Order is the date it is signed by the Department (“Effective Date”).

12.5. Integration: This agreement constitutes the entire agreement between the parties and may not be amended, supplemented, or modified, except as provided in this agreement.

12.6. Compliance with Discharge Requirements: Nothing in this order shall be construed to authorize Respondent to violate any discharge requirements issued by the county sanitation department, the State Water Resources Control Board or a California regional water quality control board.

Dated: \_\_\_\_\_  
U.S. Filter Recovery Services (California), Inc.  
Respondent

Dated: \_\_\_\_\_  
Department of Toxic Substances Control



## **Respondent's Responses to Allegations of Section 2 of the Consent Order**

2001 – 1: Respondent contends that Sections I(A)(4), III(A)(7), IV(B)(14)(a)4.d and IV.(B)(14)(e)2.i of the Part B Permit Application (which was approved by the Department and made a part of the Permit pursuant to Attachment A, Section II.M of the Permit) permit USFRS to conduct treatment operations in tanks 56 to 63.

2001 – 2 Respondent contends that it is not storing, but staging, hazardous wastes in such area for subsequent insertion as treatment reagents in the facility's wastewater treatment system. Respondent further contends that Section I(A)(4) of the Part B Permit Application permits USFRS to conduct such operations at this location.

2001 – 4 Respondent contends that it utilizes appropriate forms to track waste shipments through the facility, and that it is not possible to perform a volume reconciliation for tank to tank transfers based on the nature of operations at the facility.

2001 – 5 Respondent contends that it is exercising appropriate professional judgment in analyzing incoming wastes in accordance with the facility's Waste Analysis Plan. Further, Respondent contends that it had conducted compatibility and reactivity tests, or organic vapor measurements for wastes that had been accepted, transferred, stored, or treated at the facility. Further, Respondent contends that any revisions that are subsequently made to the Waste Analysis Plan should be of a type that provide necessary operational flexibility for the facility.

2001 – 9 Respondent states that, although the outer cardboard box was damaged, the inner container holding the non-RCRA waste was intact and no actual or threatened release of waste to the environment occurred in connection with this container.

2002 – 1 With regard to the alleged leaking pump, Respondent contends that the observed stain was a one-time event that occurred within a fully-contained area without release to the environment, and was immediately cleaned up and did not need to be logged on an inspection form for further corrective work. With regard to alleged deteriorated side tubes, Respondent contends that the tubes were operable and did not need to be replaced, and at the time of DTSC's inspection, were included as part of a tank level control system upgrade in Respondent's Class 1 Permit Modification Request that Respondent had requested the Department to approve on an expedited basis prior to the inspection, but did not receive such approval from the Department until January 29, 2003.

2002 – 2 Respondent contends that the level sensors for tanks 19 to 24 were included as part of a tank level control system upgrade in Respondent's Class 1 Permit Modification Request that Respondent had requested the Department to approve on an expedited basis prior to the inspection, but did not receive such approval from the Department until

January 29, 2003. Respondent further contends that it was monitoring and recording liquid levels in these tanks on a manual basis at the time of DTSC's inspection.

2002 – 3 Respondent contends that the overfill controls for the 8-pack tanks were included as part of a tank level control system upgrade in Respondent's Class 1 Permit Modification Request that Respondent had requested the Department to approve on an expedited basis prior to the inspection, but did not receive such approval from the Department until January 29, 2003. Respondent further contends that it was monitoring and recording liquid levels in these tanks on a manual basis at the time of DTSC's inspection.

2002 – 7 Respondent contends that it is normal and customary for the filter presses to drip liquids as they operate, that such filter presses have been operating in the same manner before and since the issuance of the Permit, and that Part B Permit Application Sections III(A)(7), IV(B)(14)(a)4.d, IV(B)(14)(e)2.a and Appendix AD (which identifies the facility's filter presses as being non-gasketed, which by design, result in the dripping of liquids) permit USFRS to operate such filter presses. Respondent further contends that the pad underneath the filter press is a containment pad.

2002 – 9 Respondent contends that Section IV(A)(1)(a) of the Part B Permit Application permits USFRS to use such portable tanks. Further Respondent contends that any plan that provides clarification regarding USFRS's use and management of portable tanks should provide the necessary operational flexibility for the facility.

Respondent believes, based on Respondent's discussions with and feedback from the Department's enforcement and permitting staff, that the permit modifications described in paragraph 10.14 of the Order can be processed as Class 1 permit modifications.